REMARKS

Claims 1-87 were pending in this application. Claims 25-87 (previously withdrawn) have been cancelled. No amendments have been made to the remaining claims. Claims 1-24 will be pending herein upon entry of this amendment.

In the Office Action, claims 1-6 and 8-24 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicants submit that this rejection is no longer supportable in view of the recent In re Lundgren decision (BPAI Appeal no. 2003-2088), which expressly struck down the so-called "technological arts" grounds of rejection that was the basis for the §101 rejection. The Examiner's acknowledgment that this ground of rejection is being withdrawn is respectfully urged.

The claims stand rejected under 35 U.S.C. §102(e) as being anticipated by Van Horn et al. (U.S. Patent 6,631,356 B1) ("Van Horn"). This ground of rejection is respectfully traversed.

For a prior art reference to anticipate a claim under §102, that reference must teach each and every one of the limitations recited in that claim. MPEP §2131.

However, any objective reading of Van Horn clearly shows that this reference does not disclose or even remotely suggest many features recited in the claims of the present application.

As way of background and to provide appropriate context, the present invention provides a meeting place where buyers and sellers can efficiently find each other, make individual offers to buy and sell products with varying attributes at varying prices with varying fulfillment costs, aggregate their collective demand or supply, and produce many-to-many transactions at multiple prices at the same time. See, page 8, lines 5-9 of the present application.

In this same vein, claim 1 of the present application recites a computer-implemented method for clearing offers, where the offers themselves specify conditions for acceptance. Two types of offers are recited in the claim: advantaged offers and disadvantaged offers.

An "advantaged offer" is one which, once associated, will necessarily be transacted upon, either in accordance with the originally-offered terms, or in accordance with better terms. A "disadvantage offer," on the other hand, is one which, once associated, may subsequently become disassociated, such that the offer may not be transacted upon. In other words, an "advantaged offer" has the essence of a guarantee, whereas a disadvantaged offer has no such guarantee. This is precisely what makes an advantaged offer "advantaged" as compared to a disadvantaged offer. These concepts are discussed at, for example, page 16, lines 1-7 of the pending application:

> In a given pool, the lock prices of advantaged offers improve during an offering period. Lower prices are more favorable to buyers and higher prices more favorable to sellers. Thus, in a buyer-advantaged pool, prices locked to individual buy offers decrease during the offering period, as lower sell offers are received. In a seller-advantaged pool, prices locked to individual sell offers will increase during the offering period, as higher buy offers are received.

Turning again to the recited claim language, and in accordance with the method recited in claim 1, a plurality of advantaged offers are received. Each advantaged offer is then associated with one or more available most-favorable disadvantaged offers, wherein the conditions of acceptance of each advantaged offer are met by each disadvantaged offer that has been associated with the advantaged offer. Finally, the association of at least one associated advantaged offer is changed to a newly available disadvantaged offer that offers more favorable

terms than a currently associated disadvantaged offer, when the newly available disadvantaged offer is received and meets the conditions of acceptance of the associated advantaged offer.

The steps of first associating advantaged and disadvantaged offers and then changing the association of advantaged and disadvantaged offers to a newly available disadvantaged offer is fundamental to the present invention and is what makes possible the many-to-many transactions that is one of the goals of the instant invention. This methodology is neither described nor contemplated by Van Horn.

Van Horn describes aggregating potential buyers into an online "co-op" whereby a "tremendous shift in power from the seller of goods and services to the buyer of goods and services" is enabled. Col. 3, lines 61-62. In contrasting the described methodology in Van Horn with a standard auction, Van Horn states:

> Rather than providing a method by which numerous buyers compete against one another to the "winner" at the highest price, this method enables buyers to join forces to achieve a lower price at which they all "win."

Col. 4, lines 27-31.

Thus, from these and other portions of Van Horn, it is evident that Van Horn is focused on demand or buyer aggregation through a co-op, wherein a single offer from a single seller at a starting price will trigger multiple buyer offers at the starting price, or below. No other conditions, beyond price, are included in Van Horn buyer offers.

When a co-op finally closes, a final price is fixed and applied to all received buyer offers at or above the final price, and the successful buyers are so notified. See, Col. 12, lines 21-36.

The differences between the claimed invention and Van Horn are evident and numerous.

First, as noted, Van Horn discloses only one metric by which buyer offers are accepted or rejected, namely price. No other offer conditions are required. In contrast, claim 1 of the present application requires conditions (plural) of acceptance in connection with (advantaged) offers. These conditions might correspond to, for example, those recited in dependent claim 12, including a product specification, quantity specifications, pool specification and fragment list, among others. There is simply no notion of multiple conditions being required of buyer offers in Van Horn. Buyer offers in Van Horn are based on only a single metric, not plural metrics (or conditions). For this reason alone the claims of the present application should be allowable over the Van Horn prior art.

Second, the basis for the §102(e) rejection in the latest Office Action (final rejection) simply refers to the rejection set forth in the Office Action mailed April 21, 2005. However, the details in that earlier Office Action make no mention of how Van Horn discloses both of the recited "advantaged offers" and "disadvantaged offers." The Examiner is once again reminded that for a reference to anticipate a claim, each and every one of the elements must be disclosed by that reference. However, Van Horn is, in fact, totally silent on a methodology that employs these different types of offers. In view of Van Horn's total lack of disclosure regarding the advantaged and disadvantaged offer limitations, the claims should be allowable over this prior art for this additional reason.

Finally, even if, *arguendo*, one were to deny giving any patentable weight to the "conditions" limitation or the terms "advantaged offers" and "disadvantaged offers" (which

Applicants strongly assert would be improper), Van Horn still does not disclose a basic feature of representative claim 1 that makes the goal of supporting many-to-many transactions possible.

Specifically, claim 1 requires re-associating an advantaged offer (e.g., a buyer offer) to a newly available disadvantaged offer (e.g., a seller offer) that offers more favorable terms. In the co-op system of Van Horn there is only ONE seller offer per co-op, and no more. Claim 1 requires a newly available offer (i.e., one that comes in after a pair of offers (buy and sell) have already been associated). That is, claim 1 requires that there be at least two disadvantaged offers (e.g., seller offers) that are available at a given time (one that was originally associated, and another that will be newly associated). Nothing in Van Horn indicates that its co-op system can handle multiple buyer offers AND multiple seller offers. On the other hand, this is precisely the purpose of the instant invention as claimed: to handle multiple buyers and sellers, and come to different pricing and conditions agreements.

For still this additional reason, the claims of the present application should be allowable over Van Horn.

Independent claim 16 recites very similar subject matter and should be allowable for at least the same reasons set forth above.

DEPENDENT CLAIMS

In addition to very clear differences between the disclosure of Van Horn and the limitations recited in the independent claims, the difference between the disclosure of Van Horn and the subject matter recited in most of the dependent claims is also unmistakable.

Just by way of several examples, claim 3 recites that to determine which disadvantaged offers have more favorable specifications, attributes of one of the advantaged offers are applied to a price function of the disadvantaged offer to calculate a price. In other words, multiple attributes of advantaged offers are used as inputs to a price function of a disadvantaged offer to calculate price. No such functionality is disclosed in Van Horn.

Dependent claim 5 recites applying a weighting function to the calculated price of dependent claim 3. Again, Van Horn is silent regarding this type of functionality.

Dependent claim 10 adds a completely new dimension to the methodology by which offers in accordance with the present invention are associated with one another. Dependent claim 10 recites that associating is performed in order of priority of the advantaged offers, such priority being determined by the order in which the advantaged offers were received. That is, in accordance with dependent claim 10, the timing of when a particular offer is received is used as a metric in determining how to associate that offer. Van Horn has absolutely no concept of monitoring, or relying in any way on, the order in which offers are received.

Claims dependent from independent claim 16 also recite subject matter that is entirely different from what is disclosed in Van Horn. For example, claim 17 requires that a transaction description include a stepped-price schedule and generating an uninterruptible sequence of offers, each corresponding to a price step in the stepped-price schedule. Van Horn is totally silent with respect to this subject matter.

Dependent claim 21 introduces a specified "straddle limit" that is included in the transaction, and dependent claim 22 (which depends from claim 21) requires monitoring the

marketplace and adding an offer corresponding to the straddle. Again, Van Horn is devoid of any description of this methodology.

From the foregoing, it is even more apparent that Van Horn lacks disclosure of basic process steps required by the claims in the instant application. As such, a rejection of the pending claims of this application under §102(e) based on Van Horn cannot be sustained. Therefore, withdrawal of the rejection is strongly urged.

In view of the foregoing, all of the claims in this application are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

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Respectfully submitted,

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